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In re Application of TESAR et al :
U.S. Application No.: 10/588,568 :
PCT Application No.: PCT/IB2005/002476 :
Int. Filing Date: 07 February 2005 : DECISION
Priority Date Claimed: 06 February 2004 :
Attorney Docket No.: 166470600 :
For: ANTI-CD38 HUMAN ANTIBODIES AND :
USES THEREFOR :
:

This is in response to applicant's petition under 37 CFR 1.137(b) filed 14 October 2009.

BACKGROUND

On 07 February 2005, applicant filed international application PCT/IB2005/002476, which claimed priority of an earlier United States application filed 06 February 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 03 November 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 August 2006.

On 04 August 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath/declaration in compliance with 37 CFR 1.497 and a sequence listing in compliance with 37 CFR 1.821-1.825 must be filed.

On 22 May 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 14 October 2009, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 07 February 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 14 October 2009.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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